

Nusyuz and Domestic Violence in the Perspective of Islamic Law and Positive Law

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Abstract: *Nusyuz*, which is textually understood as a wife who does not obey her husband, does not permit her husband when she wants to leave the house and the permissibility of husbands hitting their wives, which is considered legal by the Qur'an as stated in Q.S. An-Nisa: verse 34, improper interpretation, it leads to physical and psychological violence in the household and leads to disharmony and even triggers divorce. All forms of violence against spouses are not legalized in either the positive legal value system or Islamic law. The purpose of this research is to discover how the concept of *nusyuz* and alternative solutions to *nusyuz* are allowed and their handling from the perspective of Islamic law and positive law. This research uses a library research method (normative law), and uses a descriptive analytical research type, and the research results are analyzed qualitatively, by examining existing regulations. Both women and men can commit *Nusyuz*, a husband can be said to have committed *nusyuz* if he relinquishes his responsibility towards his wife. Beatings carried out by husbands against *nusyuz* wives based on surah An Nisa 34, are not freely legalized but only to awaken and return the wife to obedience, not blows that cause pain and even injure. Positive Law contained in Law No. 23 of 2004 concerning Elimination of Domestic Violence is very firm in not allowing beatings and eliminating domestic violence and even criminal sanctions for perpetrators, both husband and wife.

Keywords: Nusyuz; Violence; Household.

1. INTRODUCTION

Marriage is always interesting to discuss because the issue of marriage does not only concern the fulfillment of biological needs which is the human right of every person

but also concerns the purpose of marriage as stated in Law Number 1 of 1974 concerning Marriage, namely to form an eternal and happy family based on God Almighty.

Islam strongly encourages those who can get married, because marriage is human nature and instinct. If this instinct is not fulfilled through marriage or marriage, it can lead a person to things that are prohibited by Allah such as adultery, cohabitation, and so on. The sacred purpose of marriage is to uphold Islamic law in the household. For this reason, we need to choose the right candidate before marriage, to create a family that is *sakinah mawaddah warahmah*.

In a household, everyone certainly wants a harmonious and happy family, but sometimes as a human being, we are not free from mistakes that can trigger conflicts in the family and this can be fatal especially if it is allowed to drag on and can even lead to the destruction of the household and family. Some problems can affect home life (1). Jealousy; Jealousy is a sign of love but excessive jealousy can cause conflict in the family. Wives and husbands can be jealous of each other and sometimes this is difficult to avoid, (2) Differences of opinion, every head has an opinion, especially married couples. Differences of opinion can arise at any time and even involve small things. (3). Economic problems, economic problems are often a scourge for one's home life. The husband must meet all the needs of the family and the husband must make every effort to do so, (4) Lack of affection, both husband, wife, and children in a family will feel unappreciated if they lack affection. Children who receive less attention from their parents because they are busy working can feel lonely and will eventually demand other things. This can lead to conflict within the family. (5) Lack of communication Families who are too busy with their affairs and work and do not have time to communicate well can cause misunderstandings and trigger conflict. (6) Infidelity Infidelity is something that should not be done by a married couple and can lead to adultery. Infidelity can cause great conflict in the family and even lead to divorce. Infidelity can occur when the husband has another woman or the wife has a relationship with another man. The behaviour of a wife who has a relationship with another man can be categorised as *nusyuz* behaviour or disobedience to the husband, even the husband can have an affair and this is one of the characteristics of a husband who is disobedient (*nusyuz*) to his wife (Dalamislam.com, 2024).

The term *nusyuz* has been understood as the act of a wife who disobeys or disobeys the husband's orders, the word *nusyuz* has become a term that is only reserved for wives. The defiance can be in the form of disobeying the husband without a clear and valid reason, or the wife leaving the house without the husband's permission. In this paper, it will be analysed how the concept of *nusyuz* in Islam and positive law in Indonesia, whether a husband can also be said to be *nusyuz* towards his wife, and how the permissibility of husbands hitting wives who commit *nusyuz*.

2. METHODS

This research uses library research methods (normative legal research) (Soekanto & Mahmudji, 2003). It uses descriptive-analytical research types, and the results of the study of laws and regulations are analysed qualitatively to obtain research results in the form of fuqaha views, Islamic law and positive law in viewing *nusyuz* against spouses both against wives and husbands, as well as understanding the permissibility of hitting wives who are believed to have committed *nusyuz*.

3. RESULTS AND DISCUSSION

3.1 Definition of *Nusyuz*, and Legal Basis in Al-Qur'an and Al-Hadith on Violence committed in a household

The word *nusyuz* means to oppose (*al-ishyan*). The term *nusyuz* is taken from the word *al-nasyaz* which means the high part of the earth (*mairtafa'a fi al-ardl*). According to the term, the word *nusyuz* means not submitting to Allah SWT to obey the husband. The word *nusyuz* has always been a designation reserved only for wives. This defiance can be in the form of defiance against the husband without clear and correct reasons, or the wife leaves the house without the husband's permission, or at least leaves the house without the husband's permission (Subhan, 2015).

In *lughowi* (language) *nusyuz* comes from the word *nasyaza* from the *masdar* form which means rising ground. Meanwhile, some *fiqh* scholars define *nusyuz* terminologically. For example, according to the Hanafiyah fuqaha, the definition of *nusyuz* is the occurrence of displeasure between husband and wife. The definition of *nusyuz* from the Malikiyah fuqaha is the occurrence of hostility between husband and wife. The Maliki school defines *nusyuz* as the existence of mutual mistreatment between husband and wife. *Nusyuz* in the understanding of the Shafi'iyah scholars is a dispute that occurs between husband and wife. *Nusyuz* according to the Hambaliyah scholars is the presence of displeasure and is accompanied by a relationship that is not or less harmonious on the part of both the wife and the husband. The Hanafis define *nusyuz* as the husband's hatred of his wife or treating her harshly. The Shafi'iyah scholars define it as a wife who is hostile to her husband by being unkind to him and hitting and other acts of violence. While the Hambaliyah scholars define it as a husband who gives harsh treatment to his wife or corners his wife the wife's rights are not given by the husband such as the right to maintenance, or by beatings and others (al Hanafi).

According to the Hanafiyah scholars, the definition of *nusyuz* of a wife towards her husband is that the wife closes herself off and leaves the house without her husband's permission, even though she does not have the right to do so. *Nusyuz* in the view of the Malikiyah scholars is the wife going out of the rules that must be obeyed that have been obliged to her, forbidding to have fun with her husband,

because the wife knows that she is not allowed by her husband, so she leaves the house without her husband's permission, leaving the commandments of Allah. *Nusyuz* in the view of the Syafi'iyah scholars is a wife who violates the provisions and orders that have been obliged by Allah SWT to her and is the wife's disobedience to her husband (al Sadlani, pp. 26-27).

From a contemporary perspective, Wahbah Zuhaili as a follower of the Shafi'i school of thought says that *nusyuz* is the husband's defiance or hatred of his wife towards what should be obeyed, and vice versa. In shar'i terminology, Abu Mansyur al-Lughawi said, *nusyuz* is the hatred of each husband and wife towards their spouses, the wife arises hatred for the husband, and vice versa, Abu Ishaq stated that *nusyuz* that occurs between husband and wife occurs when both have hatred for each other. The expression of this hatred can be through words, such as when disobeying, pretending to be willing but then rebelling, or doing indecent things in front of their partner (Yasid ed, 2005).

The Compilation of Islamic Law defines *Nusyuz* wife as when the wife does not fulfill her obligations and does not want to be physically and mentally devoted and organize and take care of daily household needs as well as possible (Implementation, 2004). From the above understanding, it can be concluded that *nusyuz* is any action taken by the wife to the husband with an attitude of defiance, defiance, hatred, opposition, and displeasure, as well as resistance, within the scope of the household. There are several proofs in Al-Qur'an and Hadith including:

1. Al-Qur'an: An-Nisa (34)

This means: "The men are the leaders of the women, because Allah has preferred some of them (men) over others (women), and because they (men) have spent some of their wealth. Therefore, virtuous women are those who obey God and take care of themselves in the absence of their husbands, because God has taken care of them. If you fear for *nusyuz* women, then counsel them and separate them from their beds, and if they disobey, then beat them. Then if they obey, do not look for ways to distress them. Verily, Allah is Most High, Most Great."

The first time this verse was revealed to the real world was to address the problems arising from the friend of Sa'id bin Rabi', over his wife Habibah bin Zaid bin Kharijah bin Zuhair who was fussy, disobedient then he hit her in the face. Habibah's father did not accept it, then complained to the Prophet: "O Messenger, how humiliated I am, because my daughter's husband has slapped her face." Rasulullah said "Reply" Habibah and her father rushed home to avenge what Saad had done. Shortly thereafter the Messenger of Allah called them both: Come back... Come back, this is Jibril coming to me, the Messenger of Allah (Jibril came to convey the word of Allah in Surah An Nisa 34), then the Messenger of Allah said: it is right (to reply to what he did) but what

power Allah has another will. Thus, the recommendation to retaliate is canceled (Yasid ed, 2005).

It is this verse that is used to address the issue of unruly wives. When the wife is disobedient, the husband must make several efforts in sequence. Among these are (1) advising and reminding what must be done and reminding that disobedience will cause problems that are not good in this world or the hereafter. If this effort does not work, then proceed with the next effort. (2) bed separation to let the wife sleep alone, unaccompanied until she calms down, because in general the wife's feelings will be shaken when left alone. If the wife still disobeys, then the next step is to hit her within limits that do not make her fall ill. The blow in question is civilized, not a blind blow, so the husband must not just hit. If various efforts have been made but there is no agreement, then the last resort is to leave it to their respective families to discuss whether the marriage relationship will continue or break up (Yasid ed, 2005).

Linguistically speaking, the word *dlaraba*, the word used in the verse on *nusyuz*, does not simply mean to hit. Indeed, the original meaning of the word is to hit something with something else. The word can also mean traveling, making, explaining, giving an example, covering, and others. Of these many meanings, globally the word has two meanings: (1) to perform a gentle action, for this meaning, *dlaraba* means to give an example, cover, travel, guide and the like; (2) to perform a harsh and violent action, in this meaning *dlaraba* is understood as hitting, injuring and the like (Yasid ed, 2005).

From here, it is premature to interpret the verse as the permissibility of beating a disobedient wife. To explain a sentence that has many meanings like this, must see and consider various factors and other indications, which can be used to choose in determine the evidence known from the wording of the verse itself as well as from the reality of society and the guidance of the Prophet Muhammad SAW. On this basis, religion does not want violence against wives, because the verse of *nusyuz* must be understood that if the wife commits insubordination, the husband's duty and obligation is to remind, guide, find solutions and take other actions that can restore household harmony as before, not by yelling, scolding and hitting, the husband's harsh actions will greatly hurt the wives.

M. Quraish Shihab translates "*beat them*" which has many meanings so that the word *dlaraba* does not always mean harm or violence. In the Qur'an there is the word *yadribu fil ardhi* which means people who walk/travel, therefore the command can be understood as a painless beating (Ilma, 2019).

So the blow referred to in this verse is a blow that is carried out by a *nusyuz* wife, not a blow with emotion, revenge or without provisions (measuring at will). In the book of tafsir, M. Quraish Shihab states that the word *dlaraba* has many meanings, the definition of hitting is hitting that is not painful. Furthermore, this Indonesian tafsir

expert states, once again, do not understand the word "hitting" in the sense of hurting, and does not interpret it as an act that is not praiseworthy. The Prophet warned not to hit the face and not to hurt, he also said "Aren't you ashamed to hit your wife like hitting a donkey, ashamed not only of hitting, but ashamed of failing to educate with advice and other ways (Wihidayati, 2017). Sebagian ulama berpendapat bahwa seorang suami boleh memukul istrinya untuk memberi pelajaran kepada istrinya berdasarkan Q.S Shad (38) (Ilma M. , 2019).

Reflecting on the story of Prophet Job AS, he once swore to beat his wife when he recovered from his illness due to his wife's negligence in serving him during his illness, but he felt sorry, so because of his affection for his wife he was unable to fulfill his oath so that the verse was revealed so that he hit her with a bunch of grass so that it did not hurt. This is a lesson in hitting that does not exceed the limit.

3.2. Wife beating from a positive law perspective

Violence in the form of excessive beatings generally occurs among women notebene wives for religious reasons that are understood textually and legitimized by classical fiqh or can also be based on local customs. In this era of globalization, fiqh should be understood according to the context and the present (Subhan, 2015) actualization and reconstruction needs to be carried out by the Government together with the DPR. Related to violence committed in a household in Indonesia has been regulated as an offense and sanctions will be determined for the perpetrators of violence. As contained in the Elimination of Violence committed in a household, namely Law Number 23 of 2004, called the Elimination Of Domestic Violence Law on September 22, 2004 which eliminates all acts of violence committed in a household, protects victims of violence and perpetrators given sanctions as acts of violence committed in a household and regulates how procedures for handling cases against perpetrators of violence. In this law, the position of women is equal to that of men. Women have equal rights, obligations, and opportunities in all aspects of life (Subhan, 2015). The Elimination Of Domestic Violence Law is a mobilization on the Elimination of Domestic Violence which contains articles that are closely related to Islamic law. It is explained in Article 1 that "Domestic violence is any act against a person, especially women, which results in physical, psychological, sexual, or domestic neglect, including threats to commit acts, coercion, or unlawful deprivation of independence within the scope of the household". Articles 3 and 4 state the principles of respect for human rights, justice, and gender equality, non-discrimination, and victim protection, which aim to prevent all forms of domestic violence, protect victims of domestic violence, take action against perpetrators of domestic violence and maintain the integrity of a harmonious and prosperous family. This article is of course in line with Islamic law and maqashid al

sharia initiated by Al Syatibi, protecting the soul, religion, mind, offspring and property (Handayani, 2012).

The position of *nusyuz* actualization in the Elimination Of Domestic Violence Law is a manifestation of Fazlurrahman's double movement theory which provides a reference for understanding the Qur'anic verse with two dimensions, namely socio-historical and logical synthesis. By more specifically capturing the social conditions in which surah Annisa (4) verse 34 was revealed, then brought to the present context.

The concept of *nusyuz* in the term beating cannot be solely understood as a form of giving pain to the wife, because this is a violation of the Elimination Of Domestic Violence Law. Beatings for *nusyuz* said to be for lessons are considered irrelevant because in the Elimination Of Domestic Violence Law it has been interpreted more broadly, physical, psychological, sexual violence so that no pressure can be tolerated in the Elimination Of Domestic Violence Law (Handayani, 2012).

There are opinions of classical scholars related to the concept of *nusyuz* that contradict the provisions in the Elimination Of Domestic Violence Law, such as refusing the husband's invitation to have sex, considered as *nusyuz*. This becomes an opportunity for sexual violence if there is an element of coercion, the wife is tired, sick. The concept cannot be applied in the present because there are elements of discrimination and arbitrariness against women and even violence that cannot be justified in positive law.

Arrangements related to *nusyuz* in KHI are found in article 84 paragraph 1 which explains that the wife can be considered *nusyuz* if she does not want to carry out her obligations, as explained in article 83 paragraph 1 with valid reasons. Paragraph 2 further states that as long as the wife is in *nusyuz*, the husband's obligations towards the wife in Article 80 paragraph 4 letters a and b do not apply except for matters for the benefit of his children. Then in paragraph 3, it is stated that the husband's obligations in paragraph 2 above apply again after the wife is not *nusyuz*. As for paragraph 4, it is stipulated that the provision of the presence or absence of *nusyuz* from the wife must be proven by valid evidence.

KHI article 84 paragraph 1 formulates "The wife can be considered *nusyuz* if she does not want to carry out her obligations as referred to in paragraph 83 paragraph 1 except with valid reasons. The CLD offers that *nusyuz* is not only on the wife, the husband also has the potential for *nusyuz*. The CLD states that (1). Husband/wife can be considered *nusyuz* if they do not carry out their obligations or violate their rights as regulated in KHI articles 50 and 51 (2) If there is no amicable settlement, then the injured party can submit an application or lawsuit or settlement to the court, (3) If violence or persecution occurs due to *nusyuz*, the injured party can report it as a criminal offense (Irianto, 2006).

Nusyuz wife is an act or act of disobedience committed by a wife against her husband, Islam has established several provisions for punishment for a wife who commits nusyuz. Punishment will not be carried out unless there is a violation of a forbidden thing or for leaving an obligatory action (Djuaini, 2016).

Saleh bin Ganim al Saldani explains in detail about some of the criteria for the wife's actions that are included in the act of nusyuz. According to the scholars of the madzhab, Hanafie Ulama, the wife is considered nusyuz if she leaves the house without the husband's permission, without a valid reason she does not want to serve her husband, Imam Malik the wife is nusyuz if she does not obey her husband and does not want to be married and goes to a place that she knows her husband does not like and she neglects her obligations to Allah, such as not fasting, praying and so on. Imam Syafi'i nusyuz if she does not obey her husband and does not carry out religious provisions related to her husband's rights and does not fulfill her religious obligations. Imam Hambali The wife does not fulfill the husband's rights in marriage (Djuaini, 2016).

Ibn Taymiyyah and adapted from Ibn Qudamah that the criteria for nusyuz are disobedience of the wife to be invited to have intercourse, leaving the house without the husband's permission and other actions that harm the spouse. The wife's obedience is only to what Allah commands, the wife may obey her husband only regarding the completion of Allah's commands, but if the husband orders what Allah forbids, then she is not obliged to obey. So the wife must maintain her husband's honor and keep herself pure (Djuaini, 2016).

Nusyuz is the smallest part of a conflict. Conflict is often caused by many things, including cultural differences, the interests of each party, many things that affect the occurrence of nusyuz in domestic life.

There is a verse of AL-Qur'an that points to the domestic aspect which reads: "If a woman fears disobedience or indifference on the part of her husband, then there is nothing wrong with the two of them making a true peace, and peace is better for them, though man is of a miserly disposition, and if you get along with your wives in a good way and keep yourselves from disobedience and indifference. Then surely Allah is All-knowing of what you do (QS. Annisa 128).

Q.S Annisa verse 32 explains which means: do not be jealous of what Allah has given some of you more than others, for men there is a share of what they have worked for, and for women there is a share of what they have worked for. Ask Allah for a portion of His bounty, indeed Allah knows everything.

Among the authority to act in treating nusyuz wives based on surah Annisa (4): 43 above, the husband's authority to hit is one of the actions that invites polemics and long debates, especially among fiqh scholars. Interpreters and contemporary feminist thinkers, if the scholars argue that beating a wife is permissible as long as it is within

reasonable limits and does not cause pain, let alone bleeding and avoiding the face, but it is better not to do what the Prophet did (Djuaini, 2016).

Fakhrudin Ar-Razi who quoted the opinion of Imam Shafi'i to strengthen not to hit is much better and looked at some of the companions of the Prophet stating that if you have to hit it should not use whips, sticks and other heavy equipment.

Wahbah al Zuhaili and M. Ali ash-Shabuni mention the parts that should not be hurt, namely the face, which is the honorable part, the stomach and other painful parts because this blow is not to hurt let alone kill only to change the character, the blow is only one place so as not to aggravate the pain.

Al Thabari states that if the nusyuz wife cannot be persuaded, and does not stop resisting and rebelling, beatings that cause pain should not be used, because the aim is to improve the husband and wife.

Rasyid Ridha rejects the notion that the Qur'an legitimizes this form of oppression of women through the term beating, which needs to be observed in the position that beating is carried out in the last step and beating is not to hurt only as a lesson. However, a pious husband will not choose that step.

Siti Musdah Mulia stated that the nusyuz verse is not a command, but a khabariyah sentence, so it only applies to the social context of Arab society at the time of the revelation of the verse. This dlaraba verse does not necessarily mean beating. But it is understood as education. The meaning of beating is loaded with certain interests.

Muhammad Talbi, a Tunisian religious thinker and historian, offers a historical approach in interpreting this verse. He does not reject the meaning of "beat" because indeed beating is one of the techniques of disciplining wives that was culturally justified in Arab society at the time the Prophet lived. This is a historical and cultural fact that cannot be avoided, but the permissibility of beating is a permissibility that applies to all times and places. The permissibility is bound by the historical context of the time, in which Allah as the Shari has the main purpose and goal of eliminating the permissibility of beating. This is in line with the disappearance of the historical conditions that bound it, supported by the fact that the Prophet never beat his wife and he also prohibited beating in several hadiths.

Several reformist mufasirs such as Muhammad Abduh, interpret it with a gentle affectionate blow, while several contemporary progressive Muslims, such as Edif Yuksel, Al Shaiban and Nafeh interpret this word dharaba with leave or divorce because one of the meanings of dlaraba is to leave. This is in line with the actions of the Prophet who never beat his wife.

Although there are some scholars, mufasir who interpret the word hitting in the physical sense, it is only permitted in very forced conditions, in other words, its nature is an emergency and is in no way interpreted as a recommendation let alone an

obligation. Things that must be considered by the husband (1) it is forbidden to hit using tools, sticks and the like (2) it is forbidden to hit the face (3) it is forbidden to hit certain parts (4) it is forbidden to hit which causes injury, let alone disability. The scholars prefer to avoid beating (Emiati, 2015). Husbands who avoid beating are praiseworthy actions.

In tafsir Al Azhar Hamka argues that there is permission to hit if it is very necessary, but for people who are highly virtuous beating is avoided. In certain cases there are times when facing women who are violent because they exceed the limits and cannot be corrected in various ways except to be beaten, Al Azhar: p.217. the permissibility of beating is indeed very vulnerable in the name of religion with the permissibility of beating, and this becomes fertile ground for committing acts of violence, for certain people it can be a mockery that Islam gives blessing to beating, but the Prophet's hadith states that the man who beats his wife is not the best man among my people. The structure of oppression and violence is not an easy task, but it must be done immediately. If the wife has realized her mistake, a husband is prohibited from finding fault with his wife.

(1). Hadits dari Aisyah r.a:

This means: "Never once did I see the Messenger of Allah beat his servant or beat his wife. Never did the Messenger of Allah hit with his hand or with something except for hitting in a state of jihad or fighting in the way of Allah". (H.R. Ahmad)

(2). Hadits dari Muawiyah al Qusyairiy:

Which means: "O Messenger of Allah, what are the rights of our wives?" He replied: "When you eat, you feed her, when you clothe her, you clothe her, you do not strike her in the face, you do not abuse her, and you do not keep her silent except when she is in the house". (H.R. Abu Dawud, Ibnu Majah, Ahmad dan Nasa'i)

3.3. The Meaning of Domestic Violence According to Fiqh

Violence is an act committed by either a group of people or by a person that results in injury or causes physical or property damage to another person or the death of another person. In English the word "violence" is the equivalent of the word "Violence", both of which have different concepts. In English the word "Violence" is defined as an invasion or attack on the physical psychological or mental. In Indonesian, the word "violence" is generally defined as only a form of physical attack or act of violence (Faqih, 1997).

Nowadays, violence is not only defined as physical violence, but also psychological violence, regardless of the difference between the words violence and violence in

etymological terms. Violence against a wife or violence committed in a household that is currently known can be in the form of physical, psychological, sexual violence, or domestic neglect.

While in the empirical word "hitting" there are many beatings that should not be done by husbands to their wives by physically injuring their wives. Of course, this is not justified in Islam. One of the factors of violence is that patriarchal culture is still rooted among Muslims experienced by women as wives, the position of men is higher than women and men's control over women, as if women are the property of men, where this form of patriarchy arises due to a form of ideology that is still rooted.

Everything that brings suffering or misery is a form of violence committed in a household, both physical and non-physical violence. There are 4 (four) types of violence committed in a household as stated by Dr. Hj. Fathul Jannah et al, namely (Jannah, 2003):

1. Violence in the form of physical violence, which is any act that injures or injures, causes pain, or acts that cause bodily disability, or even results in the death of a person.
2. Violence against a person's psychology, which are actions or words that cause fear so that the ability to act is lost in the form of a sense of helplessness or loss of self-confidence.
3. Violence against a person's economy, which is an act that allows one of the partners to work or to be exploited or restricts one of the partners to work that earns money.
4. Sexual violence, which is an act of physically forcing one's spouse without the spouse's consent or when the spouse does not want to engage in conjugal relations, or sexual harassment inappropriately or when the spouse does not like the sexual relations.

The fuqaha think that beating is permissible, based on verse 34 of Surah An-Nisa based on the asbab an-nuzul narrated by az-Zamakhshari when Sa'ad ibn Ar-Rabi' ibn 'Amr's wife Habibah bint Zaid ibn Abi Zuhair. In the history Habibah nusyuz to her husband, Sa'ad, who was one of the leaders of Ansar. Then Habibah was beaten by Sa'ad, then complained about her husband's treatment to her father, Zaid ibn Zuhair. Then Habibah's father complained to the Prophet about the incident. Habibah was advised by the Prophet to reply in kind (qishas). Because of that incident Surah an-Nisa' Verse 34 was revealed. After the revelation of this verse, the Prophet said: "When we want one way, Allah wants another way. But what Allah wants is the best way". Then for the beating of her husband, the law of qishas was canceled (I-Zamakhshari).

Al-Jassas relates the wife's obligation to her husband to the explanation of Q.S. Annisa verse 34. He begins his discussion with an explanation of Nusyuz, that the narrations are related to the verse which states that because of certain events, the verse about Nusyuz was revealed. There was a husband who injured his wife. Then the wife's brother came to the Prophet Muhammad, and he said that the man should be killed (Imam al Jassas). Quoted from another narration which states that the verse was revealed because there was an incident of slapping the wife by her husband, so the Prophet Muhammad SAW. ordered diqishas (Imam al Jassas). Quoted by al-Jassas, Abu Bakr stated that between men and women there is no qishas except for the qishas of the soul (Imam al Jassas).

While in another narration related to the Nusyuz verse, it states that if she commits Nusyuz, it is permissible for the husband to slap his wife, and Allah allows hitting her. This narration explains that when it is feared that the women are committing nusyuz, the husband advises them, then the husband and wife's bed is separated and finally the wife may be beaten. As the verse begins with the statement that men are the leaders of women. The word "qawwam" according to al-Jassas is intended as a lesson giver making it well civilized about manners by taking care and taking care of it. Thus, Allah in the verse favors the woman over the man, both in reason and maintenance.

The treatment or method of the husband when his wife commits nusyuz, in the explanation of al-Jassas, based on the verse is the first to advise his wife by reminding her to obey Allah. If it does not work, the next step is to separate the bed, either separating lughowi or ostracizing her with words, or not having sex with her, and separating the bed. If it still does not work, then the next step is to hit her, but when the wife has returned to obeying her husband and Allah's commands after bed separation, then it is not permissible for the wife to be hit by the husband (narrated by Ibn Abbas) (Imam al Jassas).

In another narration, it is explained that it means to fear Allah, because you have taken some of them as a trust from Allah, so it is permissible for you to have intercourse with them with the word of Allah, and beat your wife with a blow that does not cause injury so that your wife does not have intercourse with other men that you do not like in your bed, and your wife is entitled to maintenance and good clothing from you. (Narrated by Ja'far ibn Muhammad from his father, Jabir ibn Abdillah) (Imam Ghazali).

The permission to beat the nusyuz wife is a sign of necessity as in the hadith, in his tafsir quoted by al-Alusi: Ummi Kalthum ibn Abu Bakr al-Siddiq r.a said that husbands are forbidden to beat their wives. Then they complained to the Prophet Muhammad, and the Apostle said: "That the best person among you, is the one who will never beat his wife."

As quoted in Imam Taqiuddin, according to Imam Syafii, beating is not up to heavy beatings, hitting must protect the face and must not cause injury or bleeding. This means that by hitting the wife the husband is allowed only to teach a lesson and teach the wife who commits *nusyuz*. But it must be limited to the permissibility of hitting with clear limits that aim not to give pain and not with a hard blow so as not to leave wounds. Although the verse allows him to hit it is better not to hit the wife, because the choice of the Prophet is not to hit the wife.

As explained in the Encyclopedia of Islamic Law, the scholars in terms of beating agree, according to Muhammad 'Ali as-Sabuni and Wahbah az-Zuhaili that the beating that is justified is *ghair mubarrih* or a blow that is not painful and does not injure, does not even damage the face let alone break the bones (Dahlan, 1993).

Al-Razi and al Thabari have almost the same understanding as the *fiqh* scholars, as well as Rasyid Ridho and Muhammad Abduh who do not deny the possibility of beating a wife in a household who is believed to have committed *nusyuz*, because beating is only an effort to provide education for the wife's *nusyuz*. Regarding this issue of beating, all the *mufassirs* agree by giving notes on the permissibility of beating with justified blows, namely blows that are not painful, do not damage the face, do not injure, and do not break bones. And the *mufassirs* prioritize that it is better to leave it (Abduh & Ridha, 1975).

4. CONCLUSIONS

1. The term *nusyuz* has so far only been understood as the act of a wife who disobeys or disobeys the husband's orders, the word *nusyuz* has always been a term that is only intended for wives. In the Compilation of Islamic Law the wife can be considered *nusyuz* if she does not carry out her obligations, so that thus *nusyuz* can also be committed by the wife as well as by the husband, a husband can be said to commit *nusyuz* if he releases himself from his responsibilities and obligations towards his wife.
2. Hitting a *nusyuz* wife is indeed allowed in Islam based on surah An Nisa 34, namely with a blow that does not give pain, only to awaken and return the wife to obedience, not a blow that gives pain. As stated in Q.S. An-Nisa verse 34, it is not to give pain only as an action to teach a lesson, it should not hurt, as well as in positive law, namely Indonesian Law No. 23 of 2004 concerning Elimination of Domestic Violence very firmly eliminates domestic violence and can even be criminal sanctions.

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